

Group V. Claims 38-39, drawn to a set of oligonucleotides for specifically capturing WNV nucleic acid; and

Group VI. Claim 40, drawn to a method of preparing a blood supply free from West Nile virus.

In addition, the Office required further election of one sense primer species, one antisense primer species, one capture oligonucleotide species, one probe species and one internal control probe species.

Applicants hereby elect to prosecute the claims of Group II, the sense primer of SEQ ID NO:34, the antisense primer of SEQ ID NO:35, the capture oligonucleotide of SEQ ID NO:8, the probe of SEQ ID NO:52, and the internal control of SEQ ID NO:40, with traverse. All claims of Group II read on the elected species. Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application. Moreover, it is to be understood that the election of species is for the purposes of preliminary search and examination only, and that upon allowance of a generic claim, applicants will be entitled to consideration of claims to the additional species.

Applicants traverse the species election requirement as follows. The Examiner required applicants select a single capture oligonucleotide for examination at this time. However, as explained at page 38 of the application, the capture oligonucleotides can be used alone or in combination. Indeed, use of multiple capture oligonucleotides increases capture efficiency. Accordingly, applicants urge the Examiner to eliminate the requirement to select a single capture oligonucleotide since more than one, and preferably multiple oligonucleotides, are used together in order to capture the target sequence. Similarly, as explained at page 39 of the application, a second probe may also be used in combination with the first probe, for example the probe of SEQ ID NO:53. (SEQ ID NO:49 corresponds to SEQ ID NO:53 with labels on each end). Thus, applicants also request the Examiner eliminate the requirement to select a single probe species as both of SEQ ID NOS:52 and 53 can be used together.

Applicants submit that an examination of the claims as proposed would not impose a serious burden on the Examiner. MPEP 803 states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (Emphasis added).

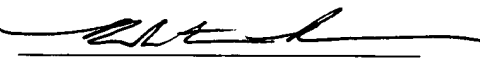
Accordingly, reconsideration of the species election requirement is requested.

Please direct all further communications in this application to:

Marcella Lillis, Esq.  
Chiron Corporation  
Intellectual Property - R440  
P.O. Box 8097  
Emeryville, CA 94662-8097

Respectfully submitted,

Date: 6/2/05

By:   
Roberta L. Robins  
Registration No. 33,208

CHIRON CORPORATION  
Intellectual Property – R440  
PO Box 8097  
Emeryville, CA 94662-8097  
Telephone: 650-493-3400  
Facsimile: 650-493-3440